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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/074,093	05/07/1998	CONWAY ROBERT SHAW	200-007950-U	1671

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EXAMINER	
NGUYEN, TU X	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
09/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/074,093	SHAW ET AL.	
	Examiner	Art Unit	
	TU X. NGUYEN	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 August 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 May 1998* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Kulberg et al. (US Patent 5850612).

Regarding claim 1, Kulberg et al. disclose an apparatus comprising:

a portable radio telephone (fig.10);

an antenna with a pivot point positioned within the radio telephone (col.11 lines 40-42, “inner wall 146), wherein the

antenna is arranged to pivot about the pivot point only in a single plane and through an acute anqle can be pivoted about an axis between a first position in which it projects from a surface of the telephone, and a second position in which it projects from a surface of the telephone (abstract), the antenna being biased and configured to be locked as the antenna pivots (col.12 lines 37-49).

Regarding claims 2 and 23, Kulberg et al. disclose a switch actuated by pivoting the antenna is position for controlling operation of the radio telephone (col.4 lines 17-20).

Regarding claims 3 and 19, Kulberg et al. disclose the antenna is biased towards the first position (see fig.12-13).

Regarding claim 4, Kulberg et al. disclose the antenna is releasably locked in the first position (see fig. 14 element 250).

Regarding claim 5, Kulberg et al. disclose a switch for controllinq operation of the radio telephone and an actuator on the antenna position for actuating the switch (col.4 lines 17-20).

Regarding claim 6, Kulberg et al. disclose the antenna is biased towards the second position (fig. 12-13).

Regarding claims 7 and 20-21, Kulberg et al. disclose the antenna is releasably locked in the second position (col.4 lines 17-20).

Regarding claim 8, Kulberg et al. disclose in the first position the antenna projects substantially parallel with a major axis of the main body portion (fig.12-13).

Regarding claim 9, Kulberg et al. disclose the first position the antenna projects substantially perpendicular to the top surface of the main body portion (abstract).

Regarding claim 10, Kulberg et al. disclose the profile of the radio telephone is minimised when the antenna is in the first position (fig.14).

Regarding claims 11 and 24-26, Kulberg et al. disclose the second position the antenna is canted relative to a major axis of the main body portion (fig.14).

Regarding claim 12, Kulberg et al. disclose the single plane of rotation intersects the top surface of the main body portion (fig.20A).

Regarding claim 13, Kulberg et al. disclose the single plane of rotation is substantially perpendicular to a front surface of the radio telephone (fig.19).

Regarding claim 14, Kulberg et al. disclose the antenna is a non-retracting helical antenna (col.11 lines 10-11).

Regarding claim 15, Kulberg et al. disclose the main body portion includes an earpiece positioned near the antenna (fig. 10, 20A, element 128).

Regarding claim 16, Kulberg et al. disclose the main body portion includes a microphone positioned distant from the antenna (fig.10, 20A, element 126).

Regarding claim 17, Kulberg et al. disclose the antenna extends beyond the main body portion (fig. 12-13).

Regarding claim 18, Kulberg et al. disclose everything as claim 1 above; more specifically, Kulberg et al disclose a single handed operation (col.14 lines 60-62) and a single plane and through an acute angle arranged to be pivoted about an axis between a first position in which it projects from a surface of the telephone and a second position in which it projects from a surface of the telephone (fig. 20A, 20B, 20C).

Regarding claim 22, Kulberg et al. disclose stop members internally of the telephone for limiting the movement of the antenna through the acute angle (col.15 lines 1-12).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tu X Nguyen/

Examiner, Art Unit 2618

8/27/08